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FILED
DEC 4 1956
JOHN T. FEY, Clerk

IN THE

Supreme Court of the United States

OCTOBER TERM, 1958

No. 10 Original

UNITED STATES OF AMERICA,
Plaintiff

VS.

STATE OF LOUISIANA

MOTION BY THE STATE OF LOUISIANA TO TAKE DEPOSITIONS

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MARC DUPUY, JR.,
Baton Rouge, La.
OF COUNSEL

IN THE

Supreme Court of the United States

OCTOBER TERM, 1956

NO. 11 ORIGINAL

UNITED STATES OF AMERICA,
Plaintiff

VS.

STATE OF LOUISIANA

MOTION BY THE STATE OF LOUISIANA TO TAKE DEPOSITIONS

TO THE HONORABLES, THE CHIEF JUSTICE OF THE UNITED STATES AND ASSOCIATE JUSTICES OF THE SUPREME COURT OF THE UNITED STATES:

Now comes the State of Louisiana, Defendant herein, through its Attorney General, and other designated counsel, and shows unto this Honorable Court:

I.

United States has filed its complaint herein for a declaration of its rights as against the State of Louisiana in the lands, minerals and other things underlying the Gulf of Mexico, lying more than three-geographic miles seaward from the ordinary low

water mark and from the outer limit of inland waters on the coast of Louisiana extending seaward to the edge of the Continental Shelf, said complaint being docketed as No. 15, Original, October Term, 1955.

II.

In response to the foregoing complaint the State of Louisiana has filed its answer bearing Docket No. 11, Original, October Term, 1956, wherein various defenses of law and of fact are set forth involving the taking of testimony of witnesses and the introduction of documents and records in evidence relating to the extent of historic boundaries of the State of Louisiana seaward in the Gulf of Mexico, all of which will more fully appear in the said answer. In its said answer, Defendant moved that this cause be transferred to a United States District Court in Louisiana for hearing and trial concerning the issues raised by the complaint and by the answer, and in the alternative prayed that if this Court asserts and exercises original jurisdiction herein that a due hearing and trial of the defenses set forth in the said answer be had and that Louisiana be decreed to be the owner of the sub-soil, seabed and mineral resources of the Continental Shelf lying seaward of the shores of the State in the Gulf of Mexico, and that Plaintiff be enjoined from trespassing thereon or from interferring with the rights of Louisiana thereto.

III.

Reserving its rights under its motion to transfer this cause to the District Court for hearing and

trial, Louisiana shows that under the provisions of Rule 9 of this Court, and pursuant to Rule 26 of the Federal Rules of Civil Procedure, it is entitled to take depositions upon oral examination for the purpose of discovery or for use as evidence in the pending action, or for both purposes. While the Federal Rules of Civil Procedure permit the taking of such depositions without leave of Court, Defendant nevertheless desires an Order from this Court recognizing its right to do so, and permitting it to take depositions on oral examination of the following named witnesses:

JAMES N. MCCONNELL
Chief, Water Bottoms, Oysters & Seafoods Division
Louisiana Wild Life & Fisheries Commission
Civil Courts Building
Royal Street
New Orleans, Louisiana

CAPT. L. R. CABIRAC
Member Enforcement Division
Louisiana Wild Life & Fisheries Commission
Civil Courts Building
Royal Street
New Orleans, Louisiana

R. L. EDDY
Former Chief, Commercial Seafoods Division
Louisiana Wild Life & Fisheries Commission
Covington, Louisiana

JOHN B. HUSSEY
Commissioner of Conservation
Louisiana Department of Conservation
State Capitol
Baton Rouge, Louisiana

LUCILLE MAY GRACE
Register of State Lands
Louisiana State Land Office
State Capitol
Baton Rouge, Louisiana

DR. MARTIN WRIGHT
Research Associate
Coastal Studies Institute
Geology Building
University Station
Baton Rouge, Louisiana

H. ROGER HUNTER, JR.,
Supervisor of Revenue
Louisiana Wild Life & Fisheries Commission
Civil Courts Building
New Orleans, Louisiana

JULIUS L. BOOK
Captain, Enforcement Division
Louisiana Wild Life & Fisheries Commission
Civil Courts Building
New Orleans, Louisiana

WILLIAM S. WERLLA
Former Assistant Director and Supervisor of Revenues
Louisiana Wild Life & Fisheries Commission
1014 Royal Street
New Orleans, Louisiana

C. J. BONNECARRERE
Secretary, State Mineral Board
State Capitol Building
Baton Rouge, Louisiana

LEO W. HOUGH
State Geologist
Geology Building
Louisiana State University
University Station
Baton Rouge, Louisiana

DR. JAMES P. MORGAN
Associate Professor of Geology
Louisiana State University
Managing Director of the Coastal Studies Institute of L. S. U.
Geology Building
University Station
Baton Rouge, Louisiana

DR. EDWIN A. DAVIS
Head Department of History
Louisiana State University
Hines Hall
University Station
Baton Rouge, Louisiana

JOHN CARLOS DEARMAS, JR.
Parish Engineer, Plaquemines Parish, Louisiana
8004 Hickory Street
New Orleans, Louisiana

In addition to the depositions of said witnesses, Defendant will offer in evidence various international treaties, conventions, maps, State records, and other documents and data relating to, or bearing on Louisiana's boundaries, and title to its submerged lands, lying seaward in the Gulf of Mexico.

IV.

Louisiana shows that it desires to take the said depositions upon oral examination at the earliest practical date which is convenient for the counsel of the United States and for the State of Louisiana, and desires to take the said depositions in the Cities of New Orleans and Baton Rouge, Louisiana for the reason that all of said witnesses reside in or near the said Cities. In this connection, Defendant shows that the taking of said depositions in Washington or outside of the State of Louisiana would result in great expense, annoyance and inconvenience to the Defendant and to the said witnesses, several of whom are not in the employ of the Defendant and could not be compelled to go to some distant point for the taking of their testimony. In addition thereto, Defendant shows that the testimony of the said witnesses would involve the use of State records which are located in New Orleans, Louisiana and in Baton Rouge, Louisiana, which said records could not be conveniently transported to any distant point.

V.

Louisiana expects to establish by the proposed depositions the extent of its historic boundaries in

the Gulf of Mexico, the possession, jurisdiction, and control exercised by the State of Louisiana over the submerged lands and waters adjacent to the shores of the State in the Gulf of Mexico and extending to the limits of the Continental Shelf, the location of Louisiana's shoreline in the Gulf of Mexico prior to or at the time the State was admitted into the Union, the nature of the shoreline, islands, bays, and so forth and other facts more specifically set forth in the Defendant's answer filed herein.

Wherefore, petitioner prays that an Order issue herein permitting it to take depositions of the above-named witnesses upon oral examination in the City of New Orleans, Louisiana for the purpose of discovery and for use as evidence in this case.

JACK P. F. GREMILLION
Attorney General
of Louisiana

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Special Asst. Atty. Gen.

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Special Asst. Atty. Gen.

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Baton Rouge, La.

MARC DUPUY, JR.
Baton Rouge, La.

OF COUNSEL

ATTORNEYS FOR THE STATE OF LOUISIANA

IN THE SUPREME COURT
OF THE
UNITED STATES
OCTOBER TERM, 1956
UNITED STATES OF AMERICA,
Plaintiff

VERSUS

STATE OF LOUISIANA
No. 11 ORIGINAL

ORDER

Considering the motion by the State of Louisiana to take depositions and the Court being of opinion that there is good cause for the taking of the same,

IT IS ORDERED that depositions may be taken by the State of Louisiana, Defendant, in New Orleans, and Baton Rouge, Louisiana as requested, of the following named witnesses:

JAMES N. McCONNELL, CAPT. L. R. CABIRAC, R. L. EDDY, H. ROGER HUNTER, JR., WILLIAM S. WERLLA, C. J. BONNECARRERE, LEO W. HOUGH, DR. JAMES P. MORGAN, DR. EDWIN A. DAVIS, JOHN CARLOS DeARMAS, JOHN B. HUSSEY, LUCILLE MAY GRACE, DR. MARTIN WRIGHT, JULIUS L. BOOK.

IT IS FURTHER ORDERED, that the depositions of the said witnesses and other evidence offered by the Defendant as set forth in the said motion may

be taken and received before a Notary Public or other officer duly qualified to administer the oath pursuant to notice duly given as required by law.

Done and signed this ..... day of ....., 1956.

.....

Justice